

1 John T. Wendland, Esq.  
2 (Nevada Bar No. 7207)  
3 WEIL & DRAGE, APC  
4 2500 Anthem Village Drive  
5 Henderson, NV 89052  
6 702-314-1905 Phone • 702-314-1909 Fax  
7 [jwendland@weildrage.com](mailto:jwendland@weildrage.com)

8 Attorneys for Plaintiff,  
9 DeMARLO BERRY

10 [counsel continued on page following the caption]

11  
12 UNITED STATES DISTRICT COURT  
13 DISTRICT OF NEVADA  
14

15 DeMARLO BERRY, an individual,  
16  
17 Plaintiff,

18 vs.

19 LAS VEGAS METROPOLITAN POLICE  
20 DEPARTMENT, a government entity; CLARK  
21 COUNTY, a political subdivision of the State of  
22 Nevada and a government entity; KAREN GOOD,  
23 an individual and an employee of a government  
24 entity; NORMAN ZIOLA, an individual and an  
25 employee of a government entity; PHIL FABIAN,  
26 an individual and an employee of a government  
27 entity; GREG JOLLEY, an individual and an  
28 employee of a government entity; WILLIAM  
KEETON, an individual and an employee of a  
government entity; and JOHN DOES 1 through 10,  
inclusive,

Defendants.

CASE NO.: 2:19-CV-640-APG-NJK

STIPULATED PROTECTIVE  
ORDER

AS AMENDED

1 Nick Brustin, Esq.  
(New York Bar No. 2844405)  
2 Emma Freudenberger, Esq.  
(New York Bar No. 4624045)  
3 Len Kamdang, Esq.  
(New York Bar No. 4345179)  
4 *Admitted Pro Hac Vice*  
5 NEUFELD SCHECK & BRUSTIN, LLP  
99 Hudson Street, 8<sup>th</sup> Floor  
6 New York, NY 10013  
7 212-965-9081 Phone • 212-965-9084 Fax  
[nick@nsbcivilrights.com](mailto:nick@nsbcivilrights.com)  
8 [emma@nsbcivilrights.com](mailto:emma@nsbcivilrights.com)  
[len@nsbcivilrights.com](mailto:len@nsbcivilrights.com)  
9

10 Craig C. Coburn, Esq.  
(Utah Bar No. 00688)  
11 Steven H. Bergman, Esq.  
(Utah Bar No. 13641)  
12 Samantha E. Wilcox, Esq.  
(Utah Bar No. 15284)  
13 *Being Admitted Pro Hac Vice Application Pending*  
14 RICHARDS BRANDT MILLER NELSON  
Wells Fargo Center, 15<sup>th</sup> Floor  
15 299 S. Main Street (84111)  
16 P.O. Box 2465  
Salt Lake City, UT 84110-2465  
17 801-531-2000 Phone • 801-532-5506 Fax  
[craig-coburn@rbmn.com](mailto:craig-coburn@rbmn.com)  
18 [steven-bergman@rbmn.com](mailto:steven-bergman@rbmn.com)  
19 [samantha-wilcox@rbmn.com](mailto:samantha-wilcox@rbmn.com)

## 20 PROPOSED PROTECTIVE ORDER

21  
22 COMES NOW, the parties, by and through their undersigned counsel of record and hereby  
23 stipulate and submit this Proposed Protective Order which will govern the handling of confidential  
24 discovery in this case.

25  
26 **WHEREAS**, the parties have agreed to the relief requested herein.

27 **WHEREAS**, discovery in this case will require the disclosure of confidential documents  
28

1 and related information including, but not limited to private medical, personal and financial  
2 information and records of Plaintiff DeMarlo Berry. Accordingly, good cause having been shown:

3 1. For the purposes of this Order, "Confidential Information" shall mean any documents,  
4 evidence, testimony, materials or other information, whether written or oral, exchanged, revealed  
5 or presented in these proceedings, designated in good faith as "Confidential" by either party.

6 ~~Confidential Information shall include, but not be limited to the private and confidential medical,~~  
7

The Court declines to allow confidentiality designations based on broad ~~'s medical records,~~  
categories of documents. Instead, a confidentiality designation may be  
made if there is a good faith basis grounded on the particular information at ~~nt records, and correspondence~~  
issue for each document.

10 ~~between Plaintiff and Plaintiff's friends or family.~~ Documents and information shall not be  
11 designated Confidential Information to the extent they are otherwise publicly available.

12 2. Confidential Information supplied by the parties shall be reviewed only by the parties in  
13 this litigation, attorneys and their supervisors as well as secretaries, investigators, paralegals,  
14 interns, staff, consultants, witnesses, any experts retained by the parties for purposes of this case  
15 and others by written consent of the parties or order by the court. Confidential Information  
16 supplied by the parties shall not be reviewed by or disclosed to any other persons not associated  
17 with this case and shall not otherwise be disclosed in any way that is inconsistent with the terms of  
18 this Order.  
19

20 3. If a party believes that any pleading, exhibit, deposition transcript, document or other  
21 written material to be produced by that party contains Confidential Information, the party shall  
22 either stamp each page containing such information as "Confidential" or designate such  
23 documents as "Confidential" by bates number in a writing directed to the opposing party's  
24 counsel. The inadvertent failure of a party to mark or designate information or testimony as  
25 Confidential at the time of its production or utterance shall not constitute a waiver of the  
26 protections provided herein, so long as said oversight is recognized and rectified in a reasonably  
27  
28

1 timely manner. No document shall be presumed to be confidential until and unless a party  
2 explicitly designates it as "Confidential Information."

3 4. A party may challenge the designation of information produced during this action as  
4 "Confidential" by bringing the issue to the attention of the Court via telephone conference or a  
5 motion for an appropriate order, provided, however, in accordance with Local Rule 26-7, the  
6 receiving party must first make a good-faith attempt to resolve the dispute informally with the  
7 producing party. A good faith effort must include ample notice, and an opportunity to review the  
8 subject issue, discuss it with the parties, and respond in writing if necessary to protect the record  
9 herein. Unless and until the parties agree that information designated as "Confidential" is not  
10 entitled to the protections conferred by such designation, or, in the absence of agreement, the  
11 Court so rules, said information shall remain Confidential Information subject to this Protective  
12 Order.  
13

14 5. Each party receiving Confidential Information will take steps to ensure that disclosure is  
15 strictly limited to persons so authorized under this Protective Order in ¶2 above, and is maintained  
16 in a manner that prevents its use for purposes not authorized in this Protective Order. All  
17 Confidential Information, whether contained in answers to interrogatories, documents, deposition  
18 transcripts or exhibits, pleadings, shall be kept in such a manner sufficient to protect the  
19 confidential nature of the information and such Confidential Information shall, at all times, be  
20 maintained in the utmost confidentiality.  
21

22 ~~6. Any party may file a motion for leave to file under seal any pleading or other~~

See order issued

concurrently herewith. ~~filed in this proceeding which contains Confidential Information.~~

23  
24 7. Each party shall be responsible for maintaining in a secure manner all copies of  
25 Confidential Information received by that party or its representatives, consultants, officers or  
26 employees, or otherwise provided by the other party.  
27  
28

1 8. This Protective Order and the production of any Confidential Information pursuant  
2 thereto are not intended as a waiver of any privilege or right. Disclosure of Confidential  
3 Information may not be compelled simply because it is covered by this Order. Further, this  
4 Protective Order is not intended to waive any objections that may be raised at the time of trial.  
5

6 9. The provisions of the Protective Order are without prejudice to the right of any party to:  
7 (a) apply to the Court for a further protective order relating to any Confidential Information or  
8 relating to discovery in this litigation, (b) apply to the Court for an order removing the  
9 Confidential Information designation (subject to the procedure described in ¶ 4 above) and (c)  
10 apply to the Court for an order permitting use or disclosure of particular documents marked as  
11 Confidential during a hearing or at trial.  
12

13 10. The parties shall communicate the confidentiality requirements of this Protective Order  
14 to every person who is given access, pursuant to the terms of this Order, to Confidential  
15 Information produced by the other party.

16 11. In the event that any Confidential Information is used in any court proceeding in  
17 connection with this litigation, the parties shall take all steps reasonably required to protect its  
18 confidentiality during such use, provided that the parties shall meet and confer to determine how  
19 the parties' interests can be best accommodated at trial.  
20

21 12. Either party may seek remedial relief in Court for a breach or threatened breach of this  
22 Order in accordance with applicable law.

23 DATED: 1st day of November, 2019.

24 Respectfully submitted,

25 MARQUIS AURBACH COFFING

WEIL & DRAGE, APC

26 By: /s/ Craig R. Anderson Esq  
27 Craig R. Anderson, Esq  
Nevada Bar No. 6882  
28 Kathleen A. Wilde, Esq

By: /s/ John T. Wendland  
John T. Wendland, Esq.  
Nevada Bar No. 7207  
2500 Anthem Village Drive

1 Nevada Bar No. 12522  
2 10001 Park Run Drive  
3 Las Vegas, NV 89145  
4 *Attorneys for Las Vegas*  
5 *Metropolitan Police Department,*  
6 *Ofc. Karen Good, Ofc. Norman Ziola,*  
7 *Ofc. Greg Jolley, and Ofc. William*  
8 *Keeton*

Henderson, NV 89052

Nick Brustin, Esq.  
Emma Freudenberger, Esq.  
Len Kamdang, Esq.  
NEUFELD SCHECK & BRUSTIN, LLP  
99 Hudson Street, 8<sup>th</sup> Floor  
New York, NY 10013

9 LEWIS BRISMOIS BISGAARD & SMITH LLP

10 By: /s/Robert Freeman, Esq  
11 Robert W. Freeman, Jr. Esq.  
12 Nevada Bar No. 3062  
13 Eunice M. Beattie, Esq.  
14 Nevada Bar No. 14198  
15 6385 S. Rainbow Blvd, Suite 600  
16 Las Vegas, NV 89118  
17 *Attorney for Defendant Clark County*

Craig C. Coburn, Esq.  
Steven H. Bergman, Esq.  
Samantha Wilcox, Esq.  
RICHARDS BRANDT MILLER NELSON  
Wells Fargo Center, 15<sup>th</sup> Floor  
299 S. Main Street (84111)  
P.O. Box 2465  
Salt Lake City, UT 84110-2465

Attorneys for Plaintiff,  
DeMARLO BERRY

18 WILSON ELSER MOSKOWITZ EDELMAN  
19 & DICKER LLP

20 By: /s/Karen L. Bashor, Esq  
21 Karen L. Bashor  
22 Nevada Bar No. 11913  
23 300 South 4<sup>th</sup> Street, 11<sup>th</sup> Fl.  
24 Las Vegas, NV 89101  
25 *Attorney for Defendant Clark County*

IT IS SO ORDERED:

26   
27 \_\_\_\_\_  
28 NANCY J. KOPPE  
UNITED STATES MAGISTRATE JUDGE

DATED: November 4, 2019